

NOTE: CHANGES MADE BY THE COURT

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – SOUTHERN DIVISION

DOLORES SANNA and ANGELA
SANNA,

Plaintiffs,

vs.

R.W. SELBY & CO., INC., a California
corporation; NEW TOWN CENTER
APARTMENTS, LLC, a Delaware
limited liability company, ,

Defendants.

CASE NO. 2:15-cv-8578-BRO-JPR

STIPULATED PROTECTIVE ORDER

[DISCOVERY MATTER]

1. A. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further

1 acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective
 2 Order does not entitle them to file confidential information under seal; Civil Local
 3 Rule 79-5 set forth the procedures that must be followed and the standards that will
 4 be applied when a party seeks permission from the court to file material under seal.

6 B. GOOD CAUSE STATEMENT

7 Disclosure and discovery activity in this action are likely to involve
 8 production of materials containing confidential, proprietary, or private information,
 9 including confidential business and financial information, information regarding
 10 confidential business practices and information pertaining to third parties, for which
 11 special protection from public disclosure and from use for any purpose other than
 12 prosecution of this action is warranted. Such materials are generally unavailable to
 13 the public, or which may be privileged or otherwise protected from disclosure under
 14 state or federal statutes, court rules, case decisions, or common law. Accordingly, to
 15 expedite the flow of information, to facilitate the prompt resolution of disputes over
 16 confidentiality of discovery materials, to adequately protect information the parties
 17 are entitled to keep confidential, to ensure that the parties are permitted reasonable
 18 necessary uses of such material in preparation for and in the conduct of trial, to
 19 address their handling at the end of the litigation, and serve the ends of justice, a
 20 protective order for such information is justified in this matter. It is the intent of the
 21 parties that information will not be designated as confidential for tactical reasons
 22 and that nothing be so designated without a good faith belief that it has been
 23 maintained in a confidential, non-public manner, and there is good cause why it
 24 should not be part of the public record of this case.

26 2. DEFINITIONS

27 2.1 Action: *Angela Sanna et al. v. R.W. Selby & Co., Inc., et al.*, Case No.
 28 2:15-cv-8578-BRO-JPR.

1 2.2 Challenging Party: a Party or Non-Party that challenges the designation
2 of information or items under this Order.

3 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
4 how it is generated, stored or maintained) or tangible things that qualify for
5 protection under Federal Rule of Civil Procedure 26(c), and as specified above in
6 the Good Cause Statement.

7 2.4 Counsel (without qualifier): Outside Counsel of Record and House
8 Counsel (as well as their support staff).

9 2.5 Designating Party: a Party or Non-Party that designates information or
10 items that it produces in disclosures or in responses to discovery as
11 “CONFIDENTIAL.”

12 2.6 Disclosure or Discovery Material: all items or information, regardless
13 of the medium or manner in which it is generated, stored, or maintained (including,
14 among other things, testimony, transcripts, and tangible things), that are produced or
15 generated in disclosures or responses to discovery in this matter.

16 2.7 Expert: a person with specialized knowledge or experience in a matter
17 pertinent to the litigation who has been retained by a Party or its counsel to serve as
18 an expert witness or as a consultant in this Action.

19 2.8 House Counsel: attorneys who are employees of a party to this Action.
20 House Counsel does not include Outside Counsel of Record or any other outside
21 counsel.

22 2.9 Non-Party: any natural person, partnership, corporation, association or
23 other legal entity not named as a Party to this action.

24 2.10 Outside Counsel of Record: attorneys who are not employees of a party
25 to this Action but are retained to represent or advise a party to this Action and have
26 appeared in this Action on behalf of that party or are affiliated with a law firm that
27 has appeared on behalf of that party, and includes support staff.

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2.11 Party: any party to this Action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

2.12 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this Action.

2.13 Professional Vendors: persons or entities that provide litigation support services (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or retrieving data in any form or medium) and their employees and subcontractors.

2.14 Protected Material: any Disclosure or Discovery Material that is designated as "CONFIDENTIAL."

2.15 Receiving Party: a Party that receives Disclosure or Discovery Material from a Producing Party.

3. SCOPE

The protections conferred by this Stipulation and Order cover not only Protected Material (as defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or presentations by Parties or their Counsel that might reveal Protected Material.

Any use of Protected Material at trial shall be governed by the orders of the trial judge. This Order does not govern the use of Protected Material at trial.

4. DURATION

Even after final disposition of this litigation, the confidentiality obligations imposed by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and defenses in this action, with

or without prejudice; and (2) final judgment herein after the completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the time limits for filing any motions or applications for extension of time pursuant to applicable law

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection.

Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. To the extent it is practical to do so, the Designating Party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify so that other portions of the material, documents, items or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber or delay the case development process or to impose unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection at all or do not qualify for the level of protection initially asserted, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable or mistaken designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

1 Designation in conformity with this Order requires:

2 (a) for information in documentary form (e.g., paper or electronic documents,
3 but excluding transcripts of depositions or other pretrial or trial proceedings), that
4 the Producing Party affix at a minimum, the legend “CONFIDENTIAL” to each
5 page that contains protected material. If only a portion or portions of the material on
6 a page qualifies for protection, the Producing Party also must clearly identify the
7 protected portion(s) (e.g., by making appropriate markings in the margins).

8 A Party or Non-Party that makes original documents or materials available for
9 inspection need not designate them for protection until after the inspecting Party has
10 indicated which documents or material it would like copied and produced. During
11 the inspection and before the designation, all of the material made available for
12 inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has
13 identified the documents it wants copied and produced, the Producing Party must
14 determine which documents, or portions thereof, qualify for protection under this
15 Order. Then, before producing the specified documents, the Producing Party must
16 affix the “CONFIDENTIAL” legend to each page that contains Protected Material.
17 If only a portion or portions of the material on a page qualifies for protection, the
18 Producing Party also must clearly identify the protected portion(s) (e.g., by making
19 appropriate markings in the margins).

20 (b) for testimony given in deposition or other discovery-related
21 proceedings, that the Designating Party identify on the record, before the close of
22 the deposition, hearing, or other proceeding, all protected testimony.

23 (c) for information produced in some form other than documentary and for
24 any other tangible items, that the Producing Party affix in a prominent place on the
25 exterior of the container or containers in which the information is stored the legend
26 “CONFIDENTIAL.” If only a portion or portions of the information or item
27 warrants protection, the Producing Party, to the extent practicable, shall identify the
28 protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order. Unless a prompt challenge to a Designating Party's confidentiality designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process by providing written notice of each designation it is challenging and describing the basis for each challenge. To avoid ambiguity as to whether a challenge has been made, the written notice must recite that the challenge to confidentiality is being made in accordance with this specific paragraph of the Protective Order as well as Local Rule 37. The parties shall attempt to resolve each challenge in good faith and must begin the process by conferring directly (in voice to voice dialogue; other forms of communication are not sufficient) within 10 days of the date of service of notice. In conferring, the Challenging Party must explain the basis for its belief that the confidentiality designation was not proper and must give the Designating Party an opportunity to review the designated material, to reconsider the circumstances, and, if no change in designation is offered, to explain the basis for the chosen designation. A Challenging Party may proceed to the next

stage of the challenge process only if it has engaged in this meet and confer process first or establishes that the Designating Party is unwilling to participate in the meet and confer process in a timely manner. In complying with this requirement, the parties must comply with Local Rules 37-1 and -1 in filing any discovery motion, including the joint stipulation requirement.

6.3 Judicial Intervention. If the Parties cannot resolve a challenge without court intervention, the Designating Party shall file and serve a motion to retain confidentiality under Civil Local Rule 37 (and in compliance with Civil Local Rule 79-5, if applicable) in accordance with the guidelines set forth by Local Rule 37, including the requirement of a joint stipulation. Each such motion must be accompanied by a competent declaration affirming that the movant has complied with the meet and confer requirements imposed in the preceding paragraph. Failure by the Designating Party to make such a motion including the required declaration within 21 days of receiving notice from the challenging party shall automatically waive the confidentiality designation for each challenged designation.

In addition, the Challenging Party may file a motion, in accordance with Civil Local Rule 37, challenging a confidentiality designation at any time if there is good cause for doing so, including a challenge to the designation of a deposition transcript or any portions thereof. Any motion brought pursuant to this provision must be accompanied by a competent declaration affirming that the movant has complied with the meet and confer requirements imposed by the preceding paragraph and Rule 37.

The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived the confidentiality designation by failing to file a motion to retain confidentiality as described above, all parties shall continue to afford the material in question the level

of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

7. ACCESS TO AND USE OF PROTECTED MATERIAL

7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending, or attempting to settle this Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "CONFIDENTIAL" only to:

(a) the Receiving Party's Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action and who have signed the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the

1 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

2 (d) the court and its personnel;

3 (e) court reporters and their staff, professional jury or trial consultants,
4 mock jurors, and Professional Vendors to whom disclosure is reasonably necessary
5 for this Action and who have signed the “Acknowledgment and Agreement to Be
6 Bound” (Exhibit A);

7 (f) during their depositions, witnesses, and attorneys for witnesses, in the
8 Action to whom disclosure is reasonably necessary and who have signed the
9 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
10 agreed by the Designating Party or ordered by the court. Pages of transcribed
11 deposition testimony or exhibits to depositions that reveal Protected Material must
12 be separately bound by the court reporter and may not be disclosed to anyone except
13 as permitted under this Stipulated Protective Order;

14 (g) the author or recipient of a document containing the information or a
15 custodian or other person who otherwise possessed or knew the information; and

16 (i) any mediator or settlement officer, and their supporting personnel,
17 mutually agreed upon by any of the parties engaged in settlement discussions or
18 assigned by the court.

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20 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED
21 IN OTHER LITIGATION

22 If a Party is served with a subpoena or a court order issued in other litigation
23 that compels disclosure of any information or items designated in this Action as
24 “CONFIDENTIAL,” that Party must:

25 (a) promptly notify in writing the Designating Party. Such notification
26 shall include a copy of the subpoena or court order;

27 (b) promptly notify in writing the party who caused the subpoena or order
28 to issue in the other litigation that some or all of the material covered by the

1 subpoena or order is subject to this Protective Order. Such notification shall include
2 a copy of this Stipulated Protective Order; and

3 (c) cooperate with respect to all reasonable procedures sought to be
4 pursued by the Designating Party whose Protected Material may be affected.

5 If the Designating Party timely seeks a protective order, the Party served with
6 the subpoena or court order shall not produce any information designated in this
7 action as "CONFIDENTIAL" before a determination by the court from which the
8 subpoena or order issued, unless the Party has obtained the Designating Party's
9 permission. The Designating Party shall bear the burden and expense of seeking
10 protection in that court of its confidential material and nothing in these provisions
11 should be construed as authorizing or encouraging a Receiving Party in this Action
12 to disobey a lawful directive from another court.

13
14 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE
15 PRODUCED IN THIS LITIGATION

16 (a) The terms of this Order are applicable to information produced by a Non-
17 Party in this Action and designated as "CONFIDENTIAL." Such information
18 produced by Non-Parties in connection with this litigation is protected by the
19 remedies and relief provided by this Order. Nothing in these provisions should be
20 construed as prohibiting a Non-Party from seeking additional protections.

21 (b) In the event that a Party is required, by a valid discovery request, to
22 produce a Non-Party's confidential information in its possession, and the Party is
23 subject to an agreement with the Non-Party not to produce the Non-Party's
24 confidential information, then the Party shall:

25 (1) promptly notify in writing the Requesting Party and the Non-
26 Party that some or all of the information requested is subject to a confidentiality
27 agreement with a Non-Party;

28 (2) promptly provide the Non-Party with a copy of the Stipulated

1 Protective Order in this Action, the relevant discovery request(s), and a reasonably
 2 specific description of the information requested; and

3 (3) make the information requested available for inspection by the
 4 Non-Party, if requested.

5 (c) If the Non-Party fails to seek a protective order from this court within 14
 6 days of receiving the notice and accompanying information, the Receiving Party
 7 may produce the Non-Party's confidential information responsive to the discovery
 8 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
 9 not produce any information in its possession or control that is subject to the
 10 confidentiality agreement with the Non-Party before a determination by the court.
 11 Absent a court order to the contrary, the Non-Party shall bear the burden and
 12 expense of seeking protection in this court of its Protected Material.

13
 14 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

15 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
 16 Protected Material to any person or in any circumstance not authorized under this
 17 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
 18 writing the Designating Party of the unauthorized disclosure(s), (b) use its best
 19 efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the
 20 person or persons to whom unauthorized disclosures were made of all the terms of
 21 this Order, and (d) request such person or persons to execute the "Acknowledgment
 22 and Agreement to Be Bound" that is attached hereto as Exhibit A.

23
 24 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
 25 PROTECTED MATERIAL

26 When a Producing Party gives notice to Receiving Parties that certain
 27 inadvertently produced material is subject to a claim of privilege or other protection,
 28 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil

1 Procedure 26(b)(5)(B). This provision is not intended to modify whatever
 2 procedure may be established in an e-discovery order that provides for production
 3 without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and
 4 (e), insofar as the parties reach an agreement on the effect of disclosure of a
 5 communication or information covered by the attorney-client privilege or work
 6 product protection, the parties may incorporate their agreement in the stipulated
 7 protective order submitted to the court.

8 9 12. MISCELLANEOUS

10 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
 11 person to seek its modification by the Court in the future.

12 12.2 Right to Assert Other Objections. By stipulating to the entry of this
 13 Protective Order, no Party waives any right it otherwise would have to object to
 14 disclosing or producing any information or item on any ground not addressed in this
 15 Stipulated Protective Order. Similarly, no Party waives any right to object on any
 16 ground to use in evidence of any of the material covered by this Protective Order.

17 12.3 Filing Protected Material. Without written permission from the
 18 Designating Party or a court order secured after appropriate notice to all interested
 19 persons, a Party may not file in the public record in this Action any Protected
 20 Material. A Party that seeks to file under seal any Protected Material must comply
 21 with Civil Local Rule 79-5. Protected Material may only be filed under seal
 22 pursuant to a court order authorizing the sealing of the specific Protected Material at
 23 issue. Pursuant to Local Rule 79-5, a sealing order will issue only upon a request
 24 establishing that the Protected Material at issue is privileged, protectable as a trade
 25 secret, or otherwise entitled to protection under the law. If a Receiving Party's
 26 request to file Protected Material under seal pursuant to Civil Local Rule 79-5(d) is
 27 denied by the court, then the Receiving Party may file the information in the public
 28 record pursuant to Civil Local Rule 79-5(e) unless otherwise instructed by the court.

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3 13. FINAL DISPOSITION

4 Within 60 days after the final disposition of this action, as defined in
 5 paragraph 4, each Receiving Party must return all Protected Material to the
 6 Producing Party or destroy such material. As used in this subdivision, “all Protected
 7 Material” includes all copies, abstracts, compilations, summaries, and any other
 8 format reproducing or capturing any of the Protected Material. Whether the
 9 Protected Material is returned or destroyed, the Receiving Party must submit a
 10 written certification to the Producing Party (and, if not the same person or entity, to
 11 the Designating Party) by the 60 day deadline that (1) identifies (by category, where
 12 appropriate) all the Protected Material that was returned or destroyed and (2) affirms
 13 that the Receiving Party has not retained any copies, abstracts, compilations,
 14 summaries or any other format reproducing or capturing any of the Protected
 15 Material. Notwithstanding this provision, Counsel are entitled to retain an archival
 16 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal
 17 memoranda, correspondence, deposition and trial exhibits, expert reports, attorney
 18 work product, and consultant and expert work product, even if such materials
 19 contain Protected Material. Any such archival copies that contain or constitute
 20 Protected Material remain subject to this Protective Order as set forth in Section 4
 21 (DURATION).

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23 14. VIOLATION

24 Any violation of this Order may be punished by appropriate measures
 25 including, without limitation, contempt proceedings and/or monetary sanctions.

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3 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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5 DATED: July 25, 2016

/s/ JoAnne E. Belisle

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Frances M. Campbell

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Nima Farahani

8

JoAnne E. Belisle

Attorneys for Plaintiffs ANGELA SANNA
and DOLORES SANNA

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10 DATED: July 25, 2016

/s/ Melissa T. Daugherty

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Melissa T. Daugherty

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Kerri R. Lutfey

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Attorneys for Defendants R.W. SELBY &
CO., INC. and NEW TOWN CENTER
APARTMENTS, LLC

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17 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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19 DATED: July 27, 2016



20

HON. JEAN P. ROSENBLUTH

21

United States Magistrate Judge

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EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
 _____ [print or type full address], declare under
 penalty of perjury that I have read in its entirety and understand the Stipulated
 Protective Order that was issued by the United States District Court for the Central
 District of California on [date] in the case of *Sanna et al. v. R.W. Selby & Co., Inc.,*
et al, Case No. 2:15-cv-8578-BRO-JPR. I agree to comply with and to be bound by
 all the terms of this Stipulated Protective Order and I understand and acknowledge
 that failure to so comply could expose me to sanctions and punishment in the nature
 of contempt. I solemnly promise that I will not disclose in any manner any
 information or item that is subject to this Stipulated Protective Order to any person
 or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court
 for the Central District of California for the purpose of enforcing the terms of this
 Stipulated Protective Order, even if such enforcement proceedings occur after
 termination of this action.

I hereby appoint _____ [print or type full name] of
 _____ [print or type full address and
 telephone number] as my California agent for service of process in connection with
 this action or any proceedings related to enforcement of this Stipulated Protective
 Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____